IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1270 of 2005

Between:

M. Muthaiah, S/o. Narsaiah,
R/o. 1-1-504/3/9, Sri Sai Nagar, Suryapet, Nalgonda District.

..... PETITIONER

AND

1 The Divisional Manager, APSRTC, Suryapet Divion, Suryapet, Nalgonda

District.
2 The Depot Manager, APSRTC, Bus Depot, Suryapet, Nalgonda district.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of Certiorari quash the impugned proc. No.02/104(D21)/88-SRPT dated. 22.08.1988 is withholding increment for a period of three years with permanent effect as confirmed by the 1st respondent vide proc. No.PA/19(79)/02-DVM SRPT, dated. 17.10.2002 as illegal, arbitrary, unjust, and in violation of Reg. 12(2) of APSRTC, C.C.& A Reg. 1967 and consequently direct the respondents to restore the deferred increment along with all consequential benefits in the interests of justice and fair play.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondent No.: MR.V.T.M.PRASAD

The Court made the following :

O R D E R:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on
30-05-1988 and after receiving the explanation final orders were passed on 22-8-1988 imposing major penalty of with- holding three annual increments with cumulative effect. The petitioner questioned the said order on the ground that though there is reduction of annual increments for a period of three years with cumulative effect is a major penalty, the 1st respondent passed the impugned order without conducting any enquiry as required under the rules. Challenge to the proceedings dated 22-8-1988 the petitioner carried the matter in appeal before the 2nd respondent. The 2nd respondent rejected the appeal through his proceedings dated 17-10-2002 as time barred. Aggrieved by the same, the present writ petition has been filed.

2. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner, therefore seeks to declare the order as illegal and it is liable to be set aside.

3. The petitioner, after receiving the adverse orders slept over the matter for a period of 16 years. There are laches on his part in asserting his right regarding this issue. In view of the facts and circumstances of the case, though the impugned order is liable to be set aside on account of non-conducting of enquiries and in view of the judgment of the Supreme Court in **Kulwant Singh Gill (**1 supra). I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of three annual increments without cumulative effect. But in view of long lapse of time in filing the writ petition, the petitioner is not entitled to the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of three annual increments without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. No order as to costs.

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1st February, 2005.

mrb

To

1 The Divisional Manager, APSRTC, Suryapet Divion,

Suryapet, Nalgonda District.

2 The Depot Manager, APSRTC, Bus Depot, Suryapet,

Nalgonda district.

3. Two CD Copies.